

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THE CITY OF NEW YORK, :

Plaintiff, :

- against - :

JOHN CHARLES TAVARES, THAER NIMER
KHASHMAN, RONALD VASCOLCELAS,
ABELIS VASCONCELAS, TITO LLANES, JUAN
P. ENCARNACION and JOHN DOES 1-10. :

Defendants. :
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**MEMORANDUM DECISION AND
ORDER**

15-cv-5089 (AMD) (ST)

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ MAR 16 2018 ★

BROOKLYN OFFICE

ANN M. DONNELLY, District Judge.

The City of New York filed this action against the defendants on September 1, 2015, alleging violations of the Contraband Cigarette Trafficking Act, 18 U.S.C. § 2341 *et seq.* (CCTA), and the Racketeer Influenced Corrupt Organizations Act, 18 U.S.C. § 1961 *et seq.* (RICO). (ECF No. 1.) On January 20, 2017, I adopted Magistrate Judge Steven Tiscione's recommendation that I enter default judgment against one of the defendants, Thaer Nimer Khashman. (ECF No. 39.) On August 4, 2017, the defendant moved to vacate his default judgment. (ECF No. 44.) On August 11, 2017, the plaintiff made a cross motion for attorneys' fees. (ECF No. 45.) On August 14, 2017, I referred both motions to Judge Tiscione for a report and recommendation, and on March 1, 2018, Judge Tiscione issued a thorough report recommending that I deny both parties' motions. In particular, Judge Tiscione concluded that the defendant's conduct was "willful" by definition, and that in any event, the defendant could not demonstrate the existence of a meritorious defense. Judge Tiscione also concluded that an


award of attorneys' fees was not warranted, nor, to the extent that the plaintiff meant to ask for them, were Rule 11 sanctions appropriate. Neither party has filed objections to Judge Tiscione's report.

In reviewing a report and recommendation, the court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). To accept a report and recommendation to which there is no objection, the district court need only find that there is no clear error. *White v. W. Beef Properties, Inc.*, No. 07-cv-2345-RJD-JMA, 2011 WL 6140512, at *2 (E.D.N.Y. Dec. 9, 2011).

I have reviewed the parties' submissions and Judge Tiscione's well-reasoned and thorough report and recommendation, and conclude that the report contains no factual or legal errors. Accordingly, Judge Tiscione's report and recommendation is adopted in its entirety; the defendant's motion to vacate default judgment is denied, and the plaintiff's cross motion for attorneys' fees is also denied.

SO ORDERED.

s/Ann M. Donnelly


ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
March 16, 2018